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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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**EXAMINER**

JAMES R. MARANDI

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

Newly submitted claim 53-57 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Independent claim 53 cites substituting advertisement based on predicted duration of and ad break. This prediction is claimed to be partly based on the channel identifier (f), while detection of the ad break (e) is based on comparison of at least one determined fingerprint of the received video stream with at least one of plurality of stored fingerprints (d). It appears that there is no longer a need for a trigger signal, either automatically or manually issued through a communication network. Furthermore, now the current invention is relying on the "predicted duration of the ad break" which makes duration of ad breaks probabilistic as opposed to deterministic as was claimed before. These are all new capabilities/ limitations which point to a new and previously unclaimed invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 53- 57 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. MARANDI whose telephone number is (571)270-1843. The examiner can normally be reached on 8:00 AM- 5:00 PM M-F, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Christopher Grant/  
Supervisory Patent Examiner, Art Unit 2623

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